

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 January 2025

DOCKET NUMBER: AR20240003221

APPLICANT REQUESTS: in effect, orders transferring him to the Retired Reserve

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Memorandum Notification of Eligibility for Retired Pay at Non-Regular Retirement (20 Year Letter)
- Orders 21-055-00035 Discharge from the U.S. Army Reserve (USAR)

FACTS:

1. The applicant states he needs orders transferring him to "Grey Area Retired Reserve" status. There was an error in his records when he received expiration term of service records not stating his transfer.

2. The applicant's service record contains the following documents:

a. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was enlisted in the Regular Army from 24 September 1998 through 23 September 2002. He had 4 years of net active service this period.

b. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the USAR on 18 June 2014. He remained in the USAR through immediate reenlistments.

c. Memorandum Notification of Eligibility for Retired Pay at Non-Regular Retirement (20 Year Letter), 23 August 2018 informed him he completed the required years of qualifying Reserve service and is eligible for retire pay, upon application, at age 60.

d. Orders 21-055-00035, published by Headquarters, 88th Readiness Division, 24 February 2021 honorably discharged him from the USAR effective 24 February 2021.

f. DA Form 5016 (Chronological Statement of Retirement Points), 16 January 2025 shows he has 21 years and 1 day qualifying for retirement.

3. On 9 December 2024, the Retirement Services Officer, USAR Command provided an advisory opinion, which states the applicant was erroneously discharged. He should have been placed in the Retires Reserve because he received a "Notification of Eligibility for Retired Pay", commonly referred to as the 20-year letter, on 23 August 2018. The order transferring him into the Retired Reserve should be dated 24 February 2021. Full administrative relief granted.

4. On 31 December 2024, the advisory opinion was provided to the applicant to allow him the opportunity to respond. He did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and the Retirement Services Officer, USAR Command advisory opinion, the Board concurred with the advising official finding the applicant was erroneously discharged. He should have been placed in the Retires Reserve because he received a "Notification of Eligibility for Retired Pay", commonly referred to as the 20-year letter, on 23 August 2018. The order transferring him into the Retired Reserve should be dated 24 February 2021. The Board determined, based on the advising opine, there is sufficient evidence to grant relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XXX	XXX	XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show the applicant's order transferring him into the Retired Reserve with an effect date of 24 February 2021.

X //SIGNED//

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) contains Army policy for U.S. Army Reserve (USAR) training and retirement point credit. It also prescribes guidance for USAR unit level strength accounting.

a. Paragraph 1-7 (Service requirement for a satisfactory year of service for non-regular retirement) states, a qualifying year of service for non-regular retired pay is a full year during which a Reserve Component (RC) member is credited with a minimum of 50 retirement points. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

b. Paragraph 3-5 (DA Form 5016) provides that, these statements — (1) Provide a permanent record of the total retirement points Soldiers earn during an anniversary year. (2) Inform Soldiers whether they earned sufficient points for a qualifying year for retirement or retention in an active status. (3) Provide Soldiers an opportunity to review their retirement points to request corrections. The DA Form 5016 is initiated and prepared by HRC from the processing of data furnished manually and utilizing automation. Prepared for Soldiers under HRC command to include obligated enlisted Soldiers who have earned at least one retirement point. Prepared to cover a full anniversary year of active duty for training or active duty. Prepared for all Soldiers regardless of the number of points awarded. Issued annually and upon correction to a record.

2. Army Regulation 135-180 (Retirement for Non-Regular Service) implements statutory authorities governing the granting of retired pay for non-regular service to Soldiers in the Army National Guard (ARNG), Army National Guard of the United States (ARNGUS) or the USAR.

a. Paragraph 2-2 (Basic qualifying service requirements) states, to be eligible for retired pay at or after the age (60 years of age) specified in paragraph 2-1 (Age requirements), an individual need not have military status at the time of application, but must have completed one of the following: (1) A minimum of 20 years of qualifying service computed under Title 10, U.S. Code (USC), section 12732; or, (2) Fifteen (15) years of qualifying service, and less than 20, computed under Title 10, USC, section 12732, if the individual is to be separated because the Soldier has been determined unfit for continued Selected Reserve service, and none of the conditions in 10 USC 12731b(b) exist.

b. Paragraph 2-4 (Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter)) states, (1) Under Title 10, USC, section 12731a, RC Soldiers who complete the eligibility requirements in section I will be notified in writing within 1 year after completion of the required service in accordance with AR 140-185. The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued to Soldiers credited with 20 years of qualifying service and should be issued prior to discharge or transfer to the Retired Reserve. The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued by HRC for all USAR Soldiers except for those who are within 2 years of qualifying for an active duty retirement and can remain on active duty to complete the required service. The Notification of Eligibility for Retired Pay at Age 60 (20 Year Letter) will be issued in the format determined by HRC. After a Soldier has been notified of their eligibility for retired pay for non-regular service, the Soldier's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed, unless it resulted directly from the fraud or misrepresentation of the individual concerned. However, the number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination, and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date they are granted retired pay.

3. Title 10 U.S. Code, section 12731 (Age and service requirements) provides the legal age and service requirements for age and service for Reserve non-regular retirement. It states that, upon application, a person is entitled to retired pay if the person has attained the applicable eligibility age, has performed at least 20 years of service computed under section 12732 of this Title; and is not entitled, under any other

provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

//NOTHING FOLLOWS//